

this section for equipment subject to equipment-based standards if the engine has been installed.

§ 1068.265 What provisions apply to engines/equipment that are conditionally exempted from certification?

In some cases, exempted engines may need to meet alternate emission standards as a condition of the exemption. For example, replacement engines exempted under §1068.240 in many cases need to meet the same standards as the engines they are replacing. The standard-setting part may similarly exempt engines/equipment from all certification requirements, or allow us to exempt engines/equipment from all certification requirements for certain cases, but require the engines/equipment to meet alternate standards. In these cases, all the following provisions apply:

(a) Your engines/equipment must meet the alternate standards we specify in (or pursuant to) the exemption section, and all other requirements applicable to engines/equipment that are subject to such standards.

(b) You need not apply for and receive a certificate for the exempt engines/equipment. However, you must comply with all the requirements and obligations that would apply to the engines/equipment if you had received a certificate of conformity for them unless we specifically waive certain requirements.

(c) You must have emission data from test engines/equipment using the appropriate procedures that demonstrate compliance with the alternate standards unless the engines/equipment are identical in all material respects to engines/equipment that you have previously certified to standards that are the same as, or more stringent than, the alternate standards. Note that “engines/equipment that you have previously certified” does not include any engines/equipment initially covered by a certificate that was later voided or otherwise invalidated, or engines/equipment that we have determined did not fully conform to the regulations.

(d) See the provisions of the applicable exemption for labeling instructions, including those related to the

compliance statement and other modifications to the label otherwise required in the standard-setting part. If we do not identify specific labeling requirements for an exempted engine, you must meet the labeling requirements in the standard-setting part, with the following exceptions:

(1) Modify the family designation by eliminating the character that identifies the model year.

(2) We may also specify alternative language to replace the compliance statement otherwise required in the standard-setting part.

(e) You may not generate emission credits for averaging, banking, or trading with engines/equipment meeting requirements under the provisions of this section.

(f) Keep records to show that you meet the alternate standards as follows:

(1) If your exempted engines/equipment are identical to previously certified engines/equipment, keep your most recent application for certification for the certified family.

(2) If you previously certified a similar family, but have modified the exempted engines/equipment in a way that changes them from their previously certified configuration, keep your most recent application for certification for the certified family, a description of the relevant changes, and any test data or engineering evaluations that support your conclusions.

(3) If you have not previously certified a similar family, keep all the records we specify for the application for certification and any additional records the standard-setting part requires you to keep.

(g) We may require you to send us an annual report of the engines/equipment you produce under this section.

Subpart D—Imports

§ 1068.301 What general provisions apply?

(a) This subpart applies to you if you import into the United States engines or equipment subject to EPA emission standards or equipment containing engines subject to EPA emission standards.

(b) In general, engines/equipment that you import must be covered by a certificate of conformity unless they were built before emission standards started to apply. This subpart describes the limited cases where we allow importation of exempt or excluded engines/equipment. For equipment not subject to equipment-based exhaust emission standards, an exemption of the engine allows you to import the equipment.

(c) U.S. Customs and Border Protection may prevent you from importing engines or equipment if you do not meet the requirements of this subpart. In addition, U.S. Customs and Border Protection regulations may contain other requirements for engines/equipment imported into the United States (see 19 CFR Chapter I).

(d) Complete the appropriate EPA declaration form before importing any engines or equipment. These forms are available on the Internet at <http://www.epa.gov/OTAQ/imports/> or by phone at 734-214-4100. Importers must keep the forms for five years and make them available promptly upon request.

§ 1068.305 How do I get an exemption or exclusion for imported engines/equipment?

(a) You must meet the requirements of the specific exemption or exclusion you intend to use, including any labeling requirements that apply, and complete the appropriate declaration form described in § 1068.301(d).

(b) If we ask for it, prepare a written request in which you do the following:

(1) Give your name, address, telephone number, and taxpayer identification number.

(2) Give the engine/equipment owner's name, address, telephone number, and taxpayer identification number.

(3) Identify the make, model, identification number, and original production year of all engines/equipment.

(4) Identify which exemption or exclusion in this subpart allows you to import nonconforming engines/equipment and describe how your engine/equipment qualifies.

(5) Tell us where you will keep your engines/equipment if you might need to store them until we approve your request.

(6) Authorize us to inspect or test your engines/equipment as the Clean Air Act allows.

(c) We may ask for more information.

(d) You may import the nonconforming engines/equipment you identify in your request if you get prior written approval from us. U.S. Customs and Border Protection may require you to present the approval letter. We may temporarily or permanently approve the exemptions or exclusions, as described in this subpart.

§ 1068.310 What are the exclusions for imported engines/equipment?

If you show us that your engines/equipment qualify under one of the paragraphs of this section, we will approve your request to import such excluded engines/equipment. You must have our approval before importing engines/equipment under paragraph (a) of this section. You may, but are not required to request our approval to import the engines/equipment under paragraph (b) through (c) of this section. The following engines/equipment are excluded:

(a) *Engines/equipment used solely for competition.* Engines/equipment that you demonstrate will be used solely for competition are excluded from the restrictions on imports in § 1068.301(b), but only if they are properly labeled. See the standard-setting part for provisions related to this demonstration. Section 1068.101(b)(4) prohibits anyone from using these excluded engines/equipment for purposes other than competition.

(b) *Stationary engines.* The definition of nonroad engine in § 1068.30 does not include certain engines used in stationary applications. Such engines (and equipment containing such engines) may be subject to the standards of 40 CFR part 60. Engines that are excluded from the definition of nonroad engine in this part and are not required to be certified to standards under 40 CFR part 60 are not subject to the restrictions on imports in § 1068.301(b), but only if they are properly labeled and there is clear and convincing evidence that each engine will be used in a stationary application (see paragraph (2)(iii) of the definition of "Nonroad engine"). Section 1068.101 restricts the